98-
S. HRG. 846

NOMINATIONS OF JOEL GERBER AND JOSEPH F. DENNIN

HEARING

BEFORE THE

COMMITTEE ON FINANCE
UNITED STATES SENATE

NINETY-EIGHTH CONGRESS

SECOND SESSION

ON

NOMINATION OF

JOEL GERBER TO BE A JUDGE OF THE UNITED STATES TAX COURT

AND

JOSEPH F. DENNIN TO BE ASSISTANT SECRETARY OF COMMERCE FOR INTERNATIONAL ECONOMIC POLICY

MAY 3, 1984

Printed for the use of the Committee on Finance

U.S. GOVERNMENT PRINTING OFFICE

35-969 O WASHINGTON : 1984

5361-45

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NOMINATIONS OF JOEL GERBER AND JOSEPH F. DENNIN

THURSDAY, MAY 3, 1984

U.S. SENATE,
COMMITTEE ON FINANCE,
Washington, DC.

The committee met, pursuant to notice, at 9:45 a.m. in room SD-215, Senate Office Building, the Honorable Robert Dole [chairman] presiding.

Present: Senators Dole, Heinz, Long, and Moynihan.

[The press release announcing the hearing and opening statement of Senator Dole follow:]

Press Release No. 84-138—April 27, 1984

FINANCE COMMITTEE SETS DATE TO CONSIDER NOMINATIONS

Senator Robert J. Dole (R., Kans.), Chairman of the Committee on Finance, announced today that the Committee would conduct a hearing on Thursday, May 3, 1984, to hear testimony on nominations by President Reagan that have been referred to the Committee. The hearing will commence at 9:45 a.m. The Committee will meet in executive session following the hearing to consider these nominations.

The nominees are:

1. Mr. Joseph F. Dennin of Washington, D.C., who has been nominated to be Assistant Secretary of Commerce for International Economic Policy. Currently, Mr. Dennin is serving as Deputy Assistant Secretary of Commerce for Africa, the Near East and South Asia. Previously he has been Deputy Assistant Secretary of Commerce for Finance, Investment, and Services (1981-82); Deputy Associate Attorney General, Department of Justice (1979-1981); Director of Operations, U.S. International Trade Commission (1978-1979); Counsel to the Intelligence Oversight Board of the White House (1976-1978); and Counsel to the Senate Select Committee on Intelligence (1975-1976). From 1969 to 1975 Mr. Dennin practiced law with the New York law firm of Simpson, Thacher & Bartlett. Mr. Dennin graduated with great distinction from Stanford University with a degree in economics; he received his J.D. degree from Stanford School of Law.

2. Joel Gerber of Virginia, has been nominated to be a judge of the U.S. Tax Court. Since 1980 Mr. Gerber has been the Deputy Chief Counsel for the Internal Revenue Service with responsibility for case litigation in the U.S. tax courts. He also serves as in-house legal counsel for non-tax matters for the Commissioner of the IRS. Mr. Gerber began his career with the Internal Revenue Service as a trial lawyer in Boston and in Atlanta. He later become the District Counsel for the State of Tennessee responsible for all tax litigation and legal matters. In addition to his work with the professional tax community in Tennessee Mr. Gerber served as a lecturer in law at Vanderbilt University from 1976 through 1980. Mr. Gerber received his B.S. from Roosevelt University, his J.D. from DePaul University and his L.L.M. from Boston University.

OPENING STATEMENT OF SENATOR DOLE

I welcome today our two nominees, their families, and friends. I am pleased to note that, following the pattern of recent nominations considered by the committee,

President Reagan again has chosen persons of fine qualifications to carry out the Government's responsibilities in the positions for which each has been nominated.

For the record, we have reviewed the financial disclosure forms of each nominee, and the materials each has filed with the office of Government Ethics. I am satisfied that there are no problems in this area.

Also, I have received letters from the Director of Government Ethics approving each nominee's compliance with the Ethics in Government Act. Each letter will be made a part of the record.

Let's begin by hearing first from Mr. Joel Gerber of Virginia who has been nominated to be a judge of the U.S. Tax Court. Since 1980 Mr. Gerber has been the deputy Chief Counsel for the Internal Revenue Service with responsibility for case litigation in the U.S. Tax Courts. He also serves as in-house legal counsel for nontax matters for the Commissioner of the IRS. Mr. Gerber began his career with the Internal Revenue Service as a trial lawyer in Boston and in Atlanta. He later became the district Counsel for the State of Tennessee Responsible for all tax litigation and legal matters. In addition to his work with the professional tax community in Tennessee Mr. Gerber served as a lecturer in law at Vanderbilt University from 1976 through 1980. Mr. Gerber received his B.S. from Roosevelt University, his J.D. from Depaul University and his L.L.M. from Boston University.

Mr. Gerber, do you have any statement you wish to make?

Next we will hear from Mr. Joseph F. Dennin of Washington, D.C., who has been nominated to be Assistant Secretary of Commerce for International Economic Policy. Currently, Mr. Dennin is serving as Deputy Assistant Secretary of Commerce for Africa, the Near East and South Asia. Previously he has been Deputy Assistant Secretary of Commerce for Finance, Investment, and Services (1981–82); Deputy Associate Attorney General, Department of Justice (1979–1981); Director of Operations, U.S. International Trade Commission (1978–1979); Counsel to the Intelligence Oversight Board of the White House (1976–1978); and Counsel to the Senate Select Committee on Intelligence (1975–1976). From 1969 to 1975 Mr. Dennin practiced law with the New York law firm of Simpson, Thacher & Bartlett. Mr. Dennin graduated with great distinction from Stanford University with a degree in economics; he received his J.D degree from Standford School of Law.

Mr. Dennin, do you have any statement you wish to make?

The CHAIRMAN. I welcome today our two nominees, and their families and friends. I am pleased to note that, in my view, following the pattern of recent nominations considered by the committee President Reagan again has chosen persons of fine qualifications to carry out the Government's responsibilities in the position for which each has been nominated.

For the record, we have reviewed the financial disclosure forms of each nominee and the materials each has filed with the Office of Government Ethics, and I am satisfied that there are no problems in this area.

Also, I have received letters from the Director of Government Ethics approving each nominee's compliance with the Ethics in Government Act. Each letter will be made a part of the record.

Let's begin by hearing first from Mr. Gerber of Virginia, who has been nominated to be a judge of the U.S. Tax Court. Since 1980, Mr. Gerber has been the Deputy Chief Counsel for the Internal Revenue Service, with responsibility for case litigation in the U.S. Tax Court. He also serves as in-house legal counsel for nontax matters for the Commissioner of the IRS. Mr. Gerber began his career with the Internal Revenue Service as a trial lawyer in Boston and Atlanta. He later became the district counsel for the State of Tennessee, responsible for all tax litigation and legal matters

In addition to his work with the Professional Tax Committee in Tennessee, Mr. Gerber served as a lecturer in law at Vanderbilt University from 1976 through 1980. He received his B.S. from Roosevelt University, his J.D. from DePaul University, and his L.L.M. from Boston University.

Mr. Gerber, do you have any statement you wish to make at this time? Is there anyone you wish to introduce?

[The prepared statement of Joel Gerber and his biographical summary follow:]

OPENING STATEMENT

of

JOEL GERBER

Nominee for Position of Judge of the

UNITED STATES TAX COURT

Before the

SENATE FINANCE COMMITTEE

May 3, 1984

Mr. Chairman and Members of the Committee:

I appreciate the many demands being made upon your time and I will keep my remarks brief.

I am honored to have been nominated by the President for the position of Judge of the United States Tax Court and to appear before you today. I have specialized in tax law throughout my 19 year legal career. Much of that time I have spent working with or appearing before the United States Tax Court. During the past 10 months I was Acting Chief Counsel for the Internal Revenue Service. I am cognizant of the challenges confronting our system of taxation and I am prepared to do my best to make it a better system.

I pledge to this Committee that I will fairly and impartially interpret the laws of this country and provide an effective forum for taxpayers and the government to resolve their controversies.

Mr. Chairman, I would be pleased to answer any questions you or the other members may have.

JOEL GERBER

BIOGRAPHICAL SUMMARY

Office

Room 3026
1111 Constitution Ave., NW
Washington, D.C. 20224
(202) 566-6122

Home

3639 N. 36th Road
Arlington, VA 22207

Age 43, married, three children

Present Position: Deputy Chief Counsel
Internal Revenue Service

Place of Birth: Chicago, Illinois

Admitted to Practice:

State Jurisdictions: Georgia, Illinois and Tennessee

Federal Jurisdictions: United States Supreme Court; Circuit Courts of Appeals, United States Tax Court and District Courts

Educational Background:

Undergraduate: Roosevelt University, B.S. in B.A. Major in Accounting (1962)

Undergraduate Law: DePaul University, J.D. (1965)

Graduate Law: Boston University, L.L.M. in Taxation (1968)

Awards

1979 - Special Achievement
1981 - Senior Executive Service Bonus Award
1982 - Senior Executive Service Bonus Award
1983 - Presidential Meritorious Executive Rank Award

Legal and Professional Career Synopsis

Joel Gerber

Joel Gerber is currently the Deputy Chief Counsel and was the Acting Chief Counsel for Internal Revenue Service from May 27, 1983 to March 23, 1984. Mr. Gerber began his government career as a trial lawyer in Boston and eventually moved to Atlanta, Georgia to take on greater trial responsibilities of the more significant cases confronting the Internal Revenue Service. Following eleven years of litigation and substantive tax experience, he became the District Counsel responsible for all tax litigation and legal matters confronting the Internal Revenue Service within the state of Tennessee. Mr. Gerber became well known amongst the federal community within Tennessee and especially within the Nashville, Knoxville, Memphis and Chattanooga professional tax community. In addition to bar memberships in Georgia and Illinois, he is an active member of the Tennessee Bar and was a lecturer in law at Vanderbilt University during the period 1976 through 1980.

During May 1980 Mr. Gerber was promoted to the position of Deputy Chief Counsel with responsibilities concerning case litigation in the United States Tax Court, United States District Courts, Courts of Appeals and the Supreme Court and all in-house litigation related matters concerning over 100,000 cases in tax and tax-related areas. In 1982 he was promoted to be the sole deputy, the highest career ranking lawyer in the Internal Revenue Service, responsible for an organization consisting of nearly 5,000 people involved in the various aspects of tax administration, including litigation, formulation of technical positions (including regulations and rulings) and in-house legal counsel for non-tax matters to the Commissioner of Internal Revenue and his staff. Mr. Gerber has become nationally recognized in the tax community and is a frequent speaker at seminars, meetings and other gatherings of professionals.

Prior to beginning law school, Mr. Gerber practiced accounting in Chicago, Illinois

STATEMENT OF JOEL GERBER, NOMINEE TO BE A JUDGE, U.S. TAX COURT

Mr. GERBER. Yes, I do, Mr. Chairman. Thank you.

I would like to take this opportunity to present my three sons. If they would just stand up for a moment, please:

Jay Gerber, my oldest son, who is a college student in Virginia; Jeff Gerber, my middle son, who is a high school student in Arlington, VA at the Yorktown High School; and my youngest son John, who is a student at the Williams Williamsburg Middle School in Arlington, VA.

Thank you.

The CHAIRMAN. Thank you.

Mr. GERBER. Mr. Chairman and members of the committee:

I appreciate the many demands upon your time, and I will keep my comments brief.

I am honored to have been nominated by the President for the position of judge of the U.S. Tax Court and to appear before you today. I have specialized throughout my legal career of 19 years in the tax area. Much of that time I have spent working with and appearing before the U.S. Tax Court. During the past 10 months I was the Acting Chief Counsel for the Internal Revenue Service, and I am cognizant of the challenges confronting our system of taxation, and I am prepared to do my best to make it a better system.

I pledge to this committee that I will fairly and impartially interpret the laws of this land and provide an effective forum for taxpayers and for the Government to resolve their controversies.

Mr. Chairman, I would be pleased to answer any questions that you or any of the members may have.

The CHAIRMAN. All right.

The biggest problem we have is with the backlog, and as a litigator, maybe you may have some ideas on how we can address that. Perhaps it is time that this committee looked at a wholesale revamping of the Tax Court since, we don't seem to be making any headway on the backlog.

What is the backlog now? A thousand cases?

Mr. GERBER. Mr. Chairman, the Tax Court has approximately 59,000 cases pending before it, and it has received annually in the last several years in the neighborhood of 34,000 to 35,000 new cases.

I might note, however, that the system itself has been improving through efforts of the court and of the Administrators in the Chief Counsel's Office, inasmuch as they have closed as many as 29,000 cases last year, up from 24,000 the year before and up from 22,000 the year before that, without significant increases in resources.

So the system itself is taking steps to be more efficient in the management of the caseload.

Legislatively there have been many recommendations made over the past 10 or 15 years relating to a National Tax Court of Appeals, questions of concurrent jurisdiction between district courts and Tax Courts with respect to prepayment or deficiencies forums.

I think that the time may be coming where a National Tax Court of Appeals would be an effective way of helping to resolve the tax caseload that is not only on the system, the trial system, but on the

Supreme Court, which heard some 18 tax cases last year, up from a normal average of 6, and that is putting pressure on all parts of the system.

As to how that should work, I can't profess to be an expert; but there are many views. Judge Tannenwald recently spoke in New York City, the former chief judge of the court, and mentioned that he thought that the Tax Court and the Claims Court, which have jurisdiction in tax cases, should be folded into a National Tax Court of Appeals, and the district courts given jurisdiction. I can't really say whether that would be the best method, but surely it is time to look at the question.

The CHAIRMAN. In the Senate deficit reduction bill on which we soon will be going to conference, there is a provision increasing the interest rate in pending tax shelter cases in order to encourage both taxpayers and the IRS to settle these cases. I am not sure you are familiar with that provision, but do you think it might offer any assistance to expedite some of these cases that never seem to move?

Mr. GERBER. Mr. Chairman, I think that that or some similar type of statutory provision would be very helpful.

There are two parts of the tax shelter system that need to be addressed: One are the new cases, which I think that ERTA and TEFRA have done something to address, and I don't think that the jury is in yet, you might say, with respect to the results of that legislation, but it looks very positive.

With respect to the cases that were pending in the system prior to ERTA and TEFRA, I would say that some form of disincentive to stay in the system would be helpful. I noted that the Senate provision would charge 150 percent interest to taxpayers who were found to have an abusive shelter as defined in the statute, but the Government would also have to pay a 150-percent rate for those who were correct and in the system.

So I think that balance might be fair, and that that is something that is needed—an incentive to not be in the system just for delay.

The CHAIRMAN. Senator Heinz, do you have any questions?

Senator HEINZ. No, no questions, Mr. Chairman.

The CHAIRMAN. Mr. Gerber, have you had a chance to have a discussion with Mike Stern, the director of the minority staff? Have you talked with Mike?

Mr. GERBER. Yes, I have, Mr. Chairman.

The CHAIRMAN. There are no further questions. It may be that other members might have questions that we can submit in writing.

You have discussed your possible conflicts of interest with the committee's chief counsel Rod DeArment, is that correct?

Mr. GERBER. Yes, that is correct.

The CHAIRMAN. Is there any reason that you know which would preclude you from serving the office to which you have been nominated?

Mr. GERBER. No, there is no reason that I would know of.

The CHAIRMAN. All right.

Next we will hear from Mr. Joseph F. Dennin of Washington, DC, who has been nominated to be an Assistant Secretary of Commerce for International Economic Policy.

Currently, Mr. Dennin is serving as Deputy Assistant Secretary of Commerce for Africa, the Near East, and South Asia. Previously he has been Deputy Assistant Secretary of Commerce for Finance, Investment, and Services; Deputy Associate Attorney General, Department of Justice, from 1979 to 1981; Director of Operations, U.S. International Trade Commission, 1978 to 1979; Counsel to the Intelligence Oversight Board of the White House from 1976 to 1978; and Counsel for the Senate Select Committee on Intelligence from 1975 to 1976.

From 1969 to 1975, Mr. Dennin practiced law with the New York law firm of Simpson, Thatcher & Bartlett. He graduated with great distinction from Stanford University with a degree in economics. He received his J.D. degree from the Stanford School of Law.

I would also like to include in the record at this point a letter of recommendation from the distinguished Senator from California, Senator Wilson.

[The letter from Senator Wilson follows:]

PETE WILSON
CALIFORNIA

COMMITTEES
ARMED SERVICES
AGRICULTURE, NUTRITION, AND FORESTRY
SPECIAL COMMITTEE ON AGING

United States Senate
WASHINGTON, D.C. 20510

May 3, 1984

The Honorable Robert Dole
Chairman
Committee on Finance
United States Senate
Washington, D.C. 20510

Dear Mr. Chairman:

It is a distinct pleasure to commend for the Committee's favorable consideration the nomination of Joseph Dennin to be Assistant Secretary of Commerce for International Economic Policy.

This distinguished Californian has had broad experience in trade, international finance, and economic policies in a series of increasingly challenging positions which qualify him to assume even greater responsibilities. Before serving in his present position as Deputy Assistant Secretary for Africa, the Middle East and South Asia, he was the Department of Commerce official with primary responsibility for International Finance, Investment, and Services. In addition, Mr. Dennin has practiced law in New York City and served with the Department of Justice, the International Trade Commission, and the White House staff.

A graduate of Stanford University and the Stanford School of Law, and a Fulbright scholar, Mr. Dennin's years of service in the area of international trade and finance have given him the breadth of experience and philosophical commitment to continue serving the Administration in an outstanding manner. It is an honor to support his nomination. I urge your approval.

Sincerely,

Pete Wilson

PETE WILSON

The CHAIRMAN. I must first ask you the same two questions as Mr. Gerber:

Have you discussed possible conflicts of interest with the staff director, Rod DeArment?

Mr. DENNIN. Yes, Mr. Chairman, I have.

The CHAIRMAN. I understand you have not yet met with Mike Stern, the Democratic staff director?

Mr. DENNIN. Not in this regard, no, sir.

The CHAIRMAN. Well, I would suggest you do that, maybe after the hearing.

Is there any reason of which you know that would preclude you from serving in the office to which you have been nominated?

Mr. DENNIN. No, Mr. Chairman.

The CHAIRMAN. Do you have any statement to make at this time?

[A biographical summary of Joseph F. Dennin and a letter from the Office of Government Ethics follow:]

JOSEPH F. DENNIN

Mr. Dennin is currently Deputy Assistant Secretary of Commerce for Africa, the Near East, and South Asia. Previously, he was Deputy Assistant Secretary of Commerce for Finance, Investment, and Services (1981-82); Deputy Associate Attorney General, Department of Justice (1979-81); Director of Operations, U.S. International Trade Commission (1978-79); Counsel to the Intelligence Oversight Board, The White House Office (1976-78); and Counsel, Senate Select Committee on Intelligence (1975-76). An Attorney, Mr. Dennin practiced law in New York City with the firm of Simpson Thacher & Bartlett (1969-75).

Mr. Dennin graduated With Great Distinction from Stanford University in 1965 with a degree in economics and received his J.D. degree from the Stanford School of Law in 1968. During the academic year 1968-69, he studied comparative law and government at the University of Helsinki, under a Fulbright grant.

A Californian, Mr. Dennin now resides in Washington, D.C., with his wife and three children. He was born on June 9, 1943, in New York, New York.

United States of America
Office of Government Ethics

Office of Personnel Management
Washington, D.C. 20415

APR 12 1984

Honorable Robert Dole
Chairman, Committee on Finance
United States Senate
Washington, DC 20510

Dear Mr. Chairman:

In accordance with the Ethics in Government Act of 1978, I enclose a copy of the financial disclosure report filed by Joseph F. Dennin, who has been nominated by President Reagan for the position of Assistant Secretary for International Economic Policy, International Trade Administration, United States Department of Commerce.

We have reviewed the report and have also obtained advice from the Department of Commerce concerning any possible conflict in light of the Department's functions and the nominee's proposed duties. Based thereon, we believe that Mr. Dennin is in compliance with applicable laws and regulations governing conflicts of interest.

Sincerely,

David H. Martin
Director

Enclosure

STATEMENT OF JOSEPH F. DENNIN, NOMINEE TO BE ASSISTANT SECRETARY OF COMMERCE FOR INTERNATIONAL ECONOMIC POLICY

Mr. DENNIN. Mr. Chairman, in the interests of expediency, I would not offer any formal statement at this time. I would be happy to answer any questions from the chairman or members of the committee.

The CHAIRMAN. I think first of all it might be helpful if the record would reflect how you describe your responsibility in this new position.

Mr. DENNIN. Mr. Chairman, the Assistant Secretary for International Economic Policy, as part of a team at the International Trade Administration, tries to maintain and strengthen the international trade framework, prevent an erosion of the free-trade system, but particularly provide a specific-country expertise, drawing on a staff of about 165 professionals who follow the commercial activities in all of the major trading partners of the United States and utilizing the foreign-commercial-service officers at the Embassies around the world. It is particularly a geographic expertise that this position brings to the ITA team at the Department of Commerce.

The CHAIRMAN. Let me ask, as I meant to ask initially: Is there anybody here you would like to introduce? Are any of your family members here?

Mr. DENNIN. I would be happy to, Mr. Chairman, if I could take a moment.

My wife, Sandra, my daughter, Teri, my daughter, Allison, and there is a little screamer of about 1 year, a son, Jimmy, who we thought it best to leave at home.

The CHAIRMAN. Thank you very much. We are happy to have you here.

Mr. DENNIN. Thank you, Mr. Chairman.

The CHAIRMAN. Ambassador Brock was quoted in yesterday's papers, and I guess in fact the day before on television, as stating there would be no further need for Japanese automobile-export restraints when the current restraints expire in March 1985.

He further said he knew of no one in the Administration who would disagree with him. Do you agree with him, or disagree with him, and have any comments?

Mr. DENNIN. I wouldn't want to be the first in the Administration to disagree with him.

I certainly know no one at the Department of Commerce who disagrees with him, and I know that Secretary Baldrige has for some time been saying the same thing, sir. And I agree with that.

The CHAIRMAN. What about our trade deficit? We are looking at a $100 billion deficit. Do you see any slackening of this steady increase? What do you see as a consequence of the trade deficit? What would you do to address it?

Mr. DENNIN. I think there may be some slackening of the level of increase. Certainly over the 2 years that I have been involved in the International Trade Administration, or say from 1981 to 1983, we saw the deficit grow and virtually double, triple. We are now

talking about something from $30 billion to an excess of $100 billion in a 3½-year period.

It is not anticipated that that level of increase will keep up. Unfortunately—yes, I do agree—it will be probably over $100 billion this year, which is a significant increase from last year, and there is no simple fix.

I suppose, in part, the good news is that the dramatic improvement in the U.S. economy over that same period has in no small measure been responsible for that trade-deficit increase.

The position we find ourselves in, particularly when compared with other countries around the world, is so enviable that, as we have moved out of the recession, we have been able to take so much more of the goods and services from the rest of the countries. And, in fact, it is the increase in imports which we have taken, much more so that the decrease in exports, that has accounted for this major increase in our trade deficit.

So I don't see any solution to that, other than the improvement of the economies of the other countries of the world, principally the improvement in Latin American countries with which we have had the greatest swing, a $20 billion shift in the last 2 years, far greater than our trade deficit increase say with Japan, although it gets a lot more publicity. That has been really the central area that has accounted for this massive switch.

So, in addition to trying to get the economies of the rest of the world in better order, and we see them moving out of their own recessions, in addition to trying to do what we can to strengthen the economies of South America, and then continuing the efforts with which this committee is so familiar, trying over the last several years to improve the access of American goods, services, and investment in the developed markets of the world, like Japan, I think that's all we can do.

The CHAIRMAN. Plus, I think we need to continue our efforts on deficit reduction. The strength of the dollar and the high interest rates certainly contribute to our problem, at least in my view.

Mr. DENNIN. It certainly contributes.

The CHAIRMAN. Senator Long.

Senator LONG. I would just like to ask a question, too, about this matter, since it came up.

You wouldn't recommend that we have anything to take that quota's place when they drop it? Just drop it without anything to take its place?

Mr. DENNIN. Well, I don't see that the existing voluntary restraint is necessary, Senator. I am not aware of anything that I would recommend taking its place. I would not want to preclude anything taking its place, and I would confess that we have an individual, a Deputy Assistant Secretary, who particularly follows the automotive industry. And because of the particular importance of that, it has been spun out and given a very heightened role of attention and responsibility, and there are people who do nothing but follow that. I would want to see what their recommendations were before I said anything that might sound as if it was a departmental position.

I am unaware of any particular replacement.

Senator LONG. Are you familiar with the problems that Americans are having in getting their products into the Japanese markets?

Mr. DENNIN. Yes, sir, I am. And in that regard I might say that the fifth trade liberalization package that the Japanese gave us within the last couple of days, from my perspective at least, was rather inadequate. Although it was mixed and had some good things for some sectors in it, it did not go as far as I would have expected to have seen it go in helping us in that regard.

Senator LONG. How far out of line would you estimate the U.S. dollar is compared to the Japanese yen?

Mr. DENNIN. Well, Senator, as you well know, that is a subject about which many of the people who really have a principal expertise in the economic area differ greatly. I know the views of the Secretary of Treasury and his principal assistants and the Council of Economic Advisers—I know the range that is most talked about, and certainly everybody I have talked to in business seems to agree that there is this spread of let's say at least 20 percent. And without getting into the reasons why, how much of it is the fault of the yen being undervalued because of the Japanese refusal to internationalize it, and how much of it is the fault of the dollar for being overvalued, I could say, personally, I have no trouble saying that there is at least a 20-percent spread.

Senator LONG. Are you familiar with the extent to which Japanese taxes are rebated on exports of their commodities compared to ours?

Mr. DENNIN. No, sir. I couldn't give you an exact comparison between the percentage of taxes that are rebated on exports.

Senator LONG. Well, do you know whether or not the Japanese system, for example, in the way of tax production is pretty well in line with the way that the Europeans do it, when they do it with their value-added tax?

Mr. DENNIN. I don't know how it compares exactly with the Europeans. I know that there are a number of things that the Japanese Government does in the financial area which make it certainly more attractive for their exporters, things that in the main I would not endorse doing here.

Senator LONG. I just wrote down a figure, just off the top of my head. No one could know for certain whether or not these are more correct than yours. I thought just to be on the safe side I would put down 25 percent as the currency differential; you put it at 20.

Mr. DENNIN. I said it would be somewhere in excess of 20, Senator.

Senator LONG. Yes. So we are not far apart on that.

And then, I would assume that our tax burden, Social Security taxes and income taxes, not to mention State and local taxes, would be good for about 14 points. If you add that up, that is 39 percent. And we are not assessing that to Japan at the border, nor are we rebating it to our producers on exports.

So it is a burden our people bear that the other fellow doesn't.

All right, now there is 39 points. An ordinary estimate is that freight and insurance are worth 10 points. So you subtract 10 from 39, and that gives you 29 points. And it would seem to me that 29 points, assuming that their wages and productivity are about on a

par with us, I should think that is about all the advantage I would need to put you out of business, if I had 29 points advantage on you. What is your thought about that?

Mr. DENNIN. I would agree, Senator, that if you would spot somebody a 30-point advantage, you would be in serious difficulty competing with them. And as I said, there is no doubt but that the tax structure in Japan, the rate of saving that goes on in that country, the cost of money to businesses for R&D purposes, gives them a tremendous advantage in that regard.

Senator LONG. It seems to me that if we are going to engage in free trade, and we have got a tax system which compared to the other fellow's tax system is practically a death sentence in itself, and then we give them the currency disadvantage to go along with that, you had better not start free trading under those circumstances unless you are ready to sacrifice a lot of basic industries, and unless you are in a position to just export a lot of commodities that you are not exporting right now. How would you propose to do that?

Mr. DENNIN. Well, I certainly would like to think we could export a great deal more of basic commodities than we are exporting right now. I mean, there is no question, in my mind at least, that there are things that are fairly basic, from soda ash to paper production, a number of fairly basic things that we can improve on. That is not going to answer the deficit equation; obviously no amount of the basic commodities or the agricultural things are going to do it.

So you are right, Senator, clearly we have to move toward redressing that competitive advantage that they have. And the precise method of tinkering with the system to best arrive at that is something that I would not want to suggest right now, sir.

Senator LONG. Well now, this year you will be lucky if your trade deficit does not exceed $100 billion. Isn't that right, sir?

Mr. DENNIN. I think that is fair to say. Yes, sir.

Senator LONG. And it is estimated that every billion dollars is a loss of 25,000 jobs, so that would be, roughly speaking, about 2½ million good jobs we are talking about.

Now, mind you, that is a conservative estimate. I have had economists tell me that it would be more accurate to say 50,000 for every billion. But just putting it at the lower figure, 25,000, that is 2½ million good jobs. Can we really afford to sacrifice all of those jobs in the automobile industry that really a lot of people have come to count on?

Mr. DENNIN. Senator, I don't mean to make it sound as if we can treat cavalierly those numbers of jobs or that a few billion here and a few billion there doesn't count. And I say that as a preface to what I am about to say, which is to keep in mind the relative importance—for all the publicity it gets—of Japan.

Over the period of the last couple of years we have seen our trade deficit with Japan increase by about $4 billion, which of course is a long way short of explaining the increase, during that same period, of our overall trade deficit by something in the neighborhood of $40 to 60 billion.

So the principal problem, so as not to suggest that that $100 billion deficit is all the fault of our bilateral trade with Japan over

the last couple of years, the principal swing has been with the Latin American countries and others who are simply not able to continue buying our products because of the state of their economy, and due to the degree to which we have come out of the recession, we have bought even more of their products. As I said, we have had a $20 billion, five times the spread with Japan, swing in the 2-year period with Latin America.

Senator LONG. Thank you.

The CHAIRMAN. Any other questions?

[No response.]

The CHAIRMAN. If not, we will excuse the nominees. And I think, Mr. Dennin, you should consult soon with Mike Stern—Mr. Gerber has already done that.

We appreciate very much your being here. We will move as quickly as we can on the nominations. Thank you very much.

Mr. DENNIN. Thank you very much.

Mr. GERBER. Thank you, Mr. Chairman.

[Whereupon, at 10:10 a.m., the nomination hearing was concluded.]

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